

UNITED STATES U.S. DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE: KEURIG GREEN MOUNTAIN	:	ECF Case
SINGLE SERVE COFFEE ANTITRUST	:	
LITIGATION	:	1:14-md-2542-VSB-HBP
	:	
	:	MDL No. 2542
	:	
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JBR, Inc. (D/B/A ROGERS FAMILY	:	
COMPANY),	:	1:14-cv-04242-VSB-HBP
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
KEURIG GREEN MOUNTAIN, INC.	:	
(F/K/A GREEN MOUNTAIN COFFEE	:	
ROASTERS, INC. AND AS SUCCESSOR	:	
TO KEURIG, INC.),	:	
	:	
Defendant.	:	
	:	
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**SUPPLEMENTAL DECLARATION OF DANIEL JOHNSON, JR. IN SUPPORT
OF PLAINTIFF’S MOTION FOR A PRELIMINARY INJUNCTION**

I, Daniel Johnson, Jr., declare:

1. I have personal knowledge of the facts set forth herein, and if called upon to testify, I could and would competently testify to the statements made herein. I submit this declaration in support of Plaintiff JBR, Inc., d/b/a Rogers Family Coffee Company (“Rogers”).

2. Attached hereto as Exhibit 1 is a true and correct copy of Keurig Green Mountain, Inc.’s website regarding the “Keurig 2.0 K350 Brewing System,” *available at* <http://www.keurig.com/brewers/keurig-2-0-k350-brewing-system>;

3. Attached hereto as Exhibit 2 is a true and correct copy of a an August 17, 2012

Motiv Proposal that was produced by Keurig in its patent case against Rogers, Bates numbered KVR0187677 and designated as Highly Confidential;

4. Attached hereto as Exhibit 3 is a true and correct copy of “Meeting Note” re: “Authentication of K-Cups and Brewers” dated July 24, 2012 that was produced by Keurig in its patent case against Rogers, Bates numbered KVR0208325-28 and designated as Highly Confidential;

5. Attached hereto as Exhibit 4 is a true and correct copy of “Project Squid” slide presentation, that was produced by Keurig in its patent case against Rogers, Bates numbered KVR0277006-47 and designated as Highly Confidential;

6. Attached hereto as Exhibit 5 is a true and correct copy of the Deposition of Kevin Sullivan, Volume 2 (pp. 330-465) dated August 22, 2014;

7. Attached hereto as Exhibit 6 is a true and correct copy of Press Release, “The Future of Brewing is Here,” by Keurig Green Mountain, dated August 25, 2014;

8. Attached hereto as Exhibit 7 is a true and correct copy of the Deposition of Kevin Sullivan, Volume 1 (pp. 1-329) dated August 7, 2014;

9. Attached hereto as Exhibit 8 is a true and correct copy of “More About the Keurig 2.0 Brewer,” Keuriggreenmountain.com, (last accessed Sept. 1, 2014);

10. Attached hereto as Exhibit 9 is a true and correct copy of the Deposition of David Manly, Volume 1 (pp. 1-219) dated August 8, 2014;

11. Attached hereto as Exhibit 10 is a true and correct copy of Rogers Family Company 2014 SQF Audit Report;

12. Attached hereto as Exhibit 11 is a true and correct copy of FDA Enforcement Report dated July 10, 2013 and October 9, 2013, *available at*

http://www.accessdata.fda.gov/scripts/enforcement/enforce_rpt-Product-Tabs.cfm?action=select&recall_number=F-1584-2013&w=07102013&lang=eng and
http://www.accessdata.fda.gov/scripts/enforcement/enforce_rpt-Product-Tabs.cfm?action=select&recall_number=F-1965-2013&w=10092013&lang=eng;

13. Attached hereto as Exhibit 12 is a true and correct copy of “Partnering for Success” slides for Costco Wholesale, dated April 28, 2014, Bates numbered KGM00006051 and designated as Highly Confidential;

14. Attached hereto as Exhibit 13 is a true and correct copy of the Deposition of David Manly, Volume 2 (pp. 220-375) dated August 22, 2014;

15. Attached hereto as Exhibit 14 is a true and correct copy of “Guidelines for Inquireies and Requests for Information,” Bates Numbered KGM00000089-104 and designated as Highly Confidential;

16. Attached hereto as Exhibit 15 is a true and correct copy of “Introduction to Innovation” slides for BJ’s Wholesale Club, dated Dec. 13, 2013, Bates numbered KGM00006049 and designated as Highly Confidential;

17. Attached hereto as Exhibit 16 is a true and correct copy of “Wakefern Top to Top/Innovation Meeting” slides for Wakefern, dated February 17, 2014, Bates numbered KGM00006058-191 and designated as Highly Confidential;

18. Attached hereto as Exhibit 17 is a true and correct copy of Press Release, “Keurig Green Mountain, Inc. Announces Price Increase Effective November 3, 2014,” by Keurig Green Mountain, dated August 14, 2014;

19. Attached hereto as Exhibit 18 is a true and correct copy of the Deposition of Michael Sarina, dated August 26, 2014;

20. Attached hereto as Exhibit 19 is a true and correct copy of “Ahold OWN Brands K-Cup Pack Launch Planning” slides for Ahold, dated February 11, 2014, Bates numbered KGM00006217 and designated as Highly Confidential;

21. Attached hereto as Exhibit 20 is a true and correct copy of a Letter from Lev Dassin to Aldo Badini, dated August 11, 2014, re “Assertions by TreeHouse Related to Keurig’s Proprietary Technology”; and

22. Keurig has an exclusive arrangement with Sun Chemical to use Sun Chemical’s ink and ink detection technology to lockout competitors. At least the following Sun Chemical

patent may cover the very technology that Keurig is now inviting Rogers to infringe (i.e., to “mitigate” its losses) so that Keurig will then launch yet another patent lawsuit:

US 7068356, titled “Security imaging system.” This patent claims:

1. A method for determining the authenticity of a product housed in packaging having a label attached thereto, the label having a plurality of authentication materials associated therewith, at least two of said authentication materials eliciting at least one measurably different property upon excitation of the authentication materials by an excitation source, said method comprising the steps of:
 - (a) exciting said at least two authentication materials by way of said excitation source directed across said packaging and said product to said at least two authentication materials;
 - (b) monitoring said at least one excitation-dependent property of each of said at least two authentication materials after excitation by way of said excitation source;
 - (c) developing a relative relationship profile between the at least one excitation-dependent property of each of said at least two authentication materials after excitation by way of said excitation source;
 - (d) comparing said relative relationship profile of step (c) with the relative relationship profile characteristic of said at least two authentication materials after excitation by way of said excitation source with respect to a standard for an authentically labeled, authentic product housed in authentic packaging;
 - (e) declaring authenticate said product when said relative relationship profile of step (c) corresponds to the relative relationship profile of said standard.

A true and correct copy of U.S. Patent No. 7,068,356 is attached as Exhibit 21.

I further represent under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: September 2, 2014

By: /s/ Daniel Johnson, Jr.

Daniel Johnson, Jr.